

Date of entry in Register: 14 February 2003
 Name of applicant/court: Society for The Promotion of Community Standards Inc.
 Applicant to the Labelling Body: Not Applicable
 Title of Publication: Baise-Moi
 Other Known Title(s): Fuck Me
 Rape Me
 Kiss Me
 Director(s): Virginia Desportes, Coralie Trinh Thi
 Producer(s): Phillipe Godeau
 Publisher: Not Applicable
 Author(s): Not Applicable
 Format: Video Recording/VHS PAL
 Country of Origin: France
 Language(s): French with English Subtitles

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Components of film originally examined:

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| Feature: | Baise-Moi | Running Time: | 73.45 |
| Trailers: | Nil | Running Time: | |
| | | Total Running Time: | 73.45 |

Excision/Alteration: No Excisions Recommended.

Reason(s) for Excision:

Not Applicable.

Classification Decision:

The film is objectionable if made available to persons under the age of 18 years. In video or DVD format it is objectionable unless restricted to theatrical exhibition or exhibited as part of a tertiary media studies or film studies course, and in all cases to persons who have attained the age of 18 years.

Display Conditions:

The film be advertised with the following warning "Contains frequent disturbing depictions of violence and repeated explicit sexual content and sexual violence".

Descriptive Note:

Contains frequent disturbing depictions of violence and repeated explicit sexual content and sexual violence.

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Direction to issue a label has been given on: 07 November 2002

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SUMMARY OF THE REASONS FOR DECISION:

The Board has reconsidered in full its previous decision dated 2 February 2002 in respect of the film *Baise-Moi*. The Board's decision is that the film *Baise-Moi* is objectionable if made available to persons under the age of 18 years.

The Board's decision in respect of videos or DVD's of *Baise-Moi* is that they are objectionable unless restricted to theatrical exhibition or are exhibited as part of a tertiary media or film studies course, and in all cases to persons who have attained the age of 18 years. *Baise-Moi* is to be advertised as "Contains frequent disturbing depictions of violence and repeated explicit sexual content and sexual violence".

With respect to s 3(1) of the Films, Videos, and Publications Classification Act 1993 (the Act), the Board finds that *Baise-Moi* fits through four of the five "gateway" categories, being sex, crime, cruelty and violence. Sex is described, depicted, or otherwise dealt with pervasively throughout the publication. Crime is described or depicted in murder, rape, sexual assaults, drug use and desecration of a dead body. There are also examples of cruelty. Sex and violence are often interlinked. The Board finds the unrestricted availability of *Baise-Moi* to be objectionable in terms of s 3(1) of the Act due to the prevalence of sex, crime, cruelty, and violence and the manner in which each is dealt with in the film.

In regard to s 3(2) of the Act, the Board does not find that Manu's shooting of her brother "promotes or supports or tends to promote or support" the activity because of the way she reacts. The rape scene similarly does not "promote or support" the activity as it is a cold and mechanical act. The scene where Nadine masturbates while watching a pornographic and violent video has a counter-balance in her flat-mate's comment and hence does not "promote or support" the activity. Where the man is shot up the anus, the women show no reaction indicating sexual gratification. The Board finds s 3(2)(b) and (f) of the Act do not apply. The event at the ATM machine is rejected as promoting or supporting the activity of murder because of the counter-balance. Similarly, the man being stomped to death and the killing of the art dealer and man in the street are not promoted or supported because of the reaction of the women to each of the activities.

The Board finds on balance, in respect of s 3(2) of the Act, that although the film chronicles the women's behaviour after being affected by traumatic events in their separate lives, its depiction of these events does not necessarily show the film as a whole is "promoting or supporting or tending to promote or support" the activities shown in it. The Board acknowledges that its interpretation is not the only one available, but it prefers its interpretation, taking into account the requirements under the Bill of Rights Act 1990 to adopt an interpretation which impinges as little as possible on the rights inherent in that Act.

The Board accepts that *Baise-Moi* describes, depicts, or otherwise deals with the matters in s 3(3)(a)(i), (ii) and (iii) and (c) of the Act. The rape is not taken as sexually arousing unless taken in isolation rather than in the context of the film as a whole. The extent and degree to which activities in *Baise-Moi* fall within s 3(3)(a)(i), (ii) and (iii) and (c) of the Act is high, and hence the Board accepts the submission of the Classification Office that the extent and degree to which, and the manner in which, the film juxtaposes sex, violence and sexual violence warrants an age restriction.

In respect of s 3(4) of the Act, the dominant effect of the publication is a bleak story with a view that just desserts are meted out in the end to Nadine and Manu. The impact of the medium is appropriately described as "films turn their own pages". The film has a degree of merit as a post-modern movie with some value from a feminist perspective. The film is intended for an adult audience. If its purpose is to make a social statement, it has achieved a modicum of success.

The Board considered the possibility of an excision to *Baise-Moi* but does not believe that excisions, in this case, could be made to remove likely "injury to the public good", while retaining the integrity of the publication as a whole in the context of non-theatrical release. The rape scene was specifically considered in this regard.

The 5-step process in *Moonen I* (*Moonen v Film and Literature Board of Review* (2000) 2 NZLR 9) under the Bill of Rights Act has been applied to this decision. In the Board's opinion, the restriction to persons who have attained the age of 18 years is justified because of society's wish to protect young persons from harm and at the same time provide minimum interference with rights under the Bill of Rights Act.

The Board has considered the Australian decision on *Baise-Moi*, but notes that there are a number of differences between the Australian and New Zealand legislation:

1. The Australian legislation requires that "standards of morality, decency and propriety generally accepted by reasonable adults" be taken into account when classifying a film. The New Zealand legislation requires consideration of what is "likely to be injurious to the public good".
2. The Australian Act requires application of the Australian National Classification Code and Classification Guidelines. The New Zealand Act has no equivalent.
3. The Australian Code and Guidelines prohibit any depiction of sexual violence at the X and R classification levels, whereas the New Zealand legislation requires decision makers to assess whether or not depictions of sexual violence cause a publication to promote or support sexual violence.

The Board finds that publication of *Baise-Moi* on video or DVD "is likely to be injurious to the public good" if, pursuant to either of the media, there is a likelihood of persons under the age of 18 years having access to it, or it being available for private use. The Board has to balance the needs of vulnerable members of our society against the express requirements of the Bill of Rights Act. It is the Board's view that screening *Baise-Moi* in a public theatre or some other controlled theatrical environment is less likely to cause injury to the public good than the uncontrolled private and/or in-home viewing of the video or DVD of *Baise-Moi*. There are fewer controls as to who views the publication and more likelihood of users being able to mechanically manipulate the publication for other than artistic reasons in video and DVD media.

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